

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

JON Q. WRIGHT,

Plaintiff,

v.

JAY SCHELDE d/b/a
PIKE BAY LODGE

Defendant.

Case No.

JURY TRIAL DEMANDED

COMPLAINT FOR COPYRIGHT INFRINGEMENT

COMES NOW Plaintiff Jon Q. Wright (“Plaintiff” or “Wright”) and, for his Complaint against Jay Schelde d/b/a Pike Bay Lodge (“Defendant” or “PBL”) alleges and states as follows:

JURISDICTION AND VENUE

1. This claim is brought pursuant to 17 U.S.C. § 101, *et seq.*, for copyright infringement, and 17 U.S.C. § 1202, *et seq.*, for removal or alteration of copyright management information.
2. This Court has original jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338 (a) and (b) because this case arises under the copyright laws of the United States. (17 U.S.C. § 101 *et seq.*).
3. This Court has personal jurisdiction over Defendant because Defendant is a resident of the state of Minnesota.
4. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b)(1) because Defendant resides in this judicial district.

PARTIES

5. Plaintiff is an adult individual and out-of-state resident.
6. Defendant is an adult individual residing in Minnesota, doing business as “Pike Bay Lodge.”

7. Defendant has a business address of 9422 Hearthside Drive, Tower, Minnesota 55790.

PLAINTIFF'S BACKGROUND AND WORKS

8. Wright is a prominent nature artist, who specializes in illustrating fish.
9. Over the many years of his career, Wright's work has appeared in hundreds of catalogs, advertisements, print/products illustrations, and magazine covers.
10. Wright created an original hand drawn illustration of a walleye fish leaping out of the water, entitled "Walleye / Green Lure" (the "Work").
11. The Work is registered with the United States Copyright Office under registration number VAu 1 021 822.
12. Plaintiff provides copyright management information in connection with the Works in the following way: "© Jon Q Wright".
13. Typically, Plaintiff's copyright management information is provided as a watermark on the work itself or immediately adjacent to the work, on products licensed to use the work, and on such packaging for said products.
14. Plaintiff's copyright management information is clearly visible and legible and indicates to the public that Plaintiff created the associated work.
15. Plaintiff is the sole owner and proprietor of all right, title, and interest in, and to, the copyrights for his Work.

DEFENDANT'S INFRINGEMENT

16. Defendant owns and operates a lodge called Pike Bay Lodge near Lake Vermilion, Minnesota.
17. In order to advertise and promote his lodge, Defendant maintains a website at the url www.lakevermillionresort.com (the "Website").

18. Plaintiff discovered that Defendant, without authorization, reproduced and displayed a derivative of the Work on its Website.

19. Specifically, Defendant used the derivative of the Work as a part of a promotional banner at the top of the Website's homepage.

20. Defendant created the derivative of the Work by at least removing the lure and water droplets from the original Work.

21. Defendant may also modified the Work in other ways, including altering the coloring.

22. At the time Defendant was using the Work on the Website, the Website allowed guests to check room availability and make reservations online.

23. Defendant derived revenue from its Website.

COUNT I - COPYRIGHT INFRINGEMENT
(17 U.S.C. § 501)

24. Plaintiff restates the allegations contained in the paragraphs 1-21 as if fully set forth herein.

25. Plaintiff has valid copyrights and copyright registration for the Work.

26. Defendant has infringed Plaintiff's copyrights in his Work by reproducing the Work onto the Website without authorization from Plaintiff.

27. Defendant has infringed Plaintiff's copyrights in his Work by preparing a derivative of the Work without authorization from Plaintiff.

28. To the extent that Defendant does not acknowledge copying the Work or creating derivatives therefrom, Defendant had access to the Work and the image used by Defendant is strikingly similar to the Work.

29. As a result of Defendant's above-described acts of copyright infringement, Plaintiff has sustained damages including lost licensing revenue in an amount not yet ascertained, and profits that should be disgorged to Plaintiff.

WHEREFORE, for the reasons stated above, Plaintiff prays for judgment against Defendant as follows:

- a. Under 17 U.S.C. § 502, grant temporary and final injunctions on such terms as it deems reasonable to prevent or restrain infringement of Plaintiff's copyright.
- b. Under 17 U.S.C. § 503, order the impounding and ultimately destruction, on such terms as it may deem reasonable, of any records or material involved in Defendant's copyright infringement.
- c. Under 17 U.S.C. § 504, award Plaintiff's actual damages and any additional profits of Defendant, or, if Plaintiff so elects before judgment is entered, award statutory damages.
- d. Under 17 U.S.C. § 505, award costs to Plaintiff;
- e. Under 17 U.S.C. § 505, as the prevailing party in a Copyright lawsuit, award to Plaintiff reasonable attorneys' fees.
- f. Awarding Plaintiff all available pre-judgment and post-judgment interest on all amounts of any judgment; and
- g. Grant to Plaintiff such further relief as may be equitable and proper.

DEMAND FOR JURY TRIAL

Plaintiff demands a jury trial for all issues triable to a jury.

Dated: December 21, 2020.

Respectfully submitted,

/s/ Jeffrey D. Stowman

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and

/s/ Scott J. Strohm

Scott J. Strohm (*pro hac vice* motion forthcoming)

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